

## DEVELOPMENT REVIEW COMMITTEE

-  
Tuesday, April 24, 2012

### AGENDA

-  
The Monroe County Development Review Committee will conduct a meeting on Tuesday, April 24, 2012, beginning at 1:00 PM at the Marathon Government Center, Media & Conference Room (1<sup>st</sup> floor, rear hallway), 2798 Overseas Highway, Marathon, Florida.

CALL TO ORDER

ROLL CALL

#### DRC MEMBERS:

Townsley Schwab, Senior Director of Planning and Environmental Resources  
Mike Roberts, Sr. Administrator, Environmental Resources  
Joe Haberman, Planning & Development Review Manager  
DOT Representative  
Steve Zavalney, Captain, Fire Prevention  
Public Works Department Representative

#### STAFF MEMBERS

Christine Hurley, Growth Management Division Director  
Jerry Smith, Assistant Building Official  
Mitch Harvey, Comprehensive Plan Manager  
Mayte Santamaria, Assistant Planning Director  
Rey Ortiz, Planner  
Gail Creech, Planning Commission Coordinator

CHANGES TO THE AGENDA

MINUTES FOR APPROVAL

### MEETING

#### NEW ITEMS:

1. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE SECTION 130-160, TRANSFERABLE DEVELOPMENT RIGHTS, TO REVISE THE LAND DEVELOPMENT REGULATIONS TO BE CONSISTENT WITH POLICY 101.13.4 OF THE MONROE COUNTY COMPREHENSIVE PLAN, PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

(File 2012-035)

[2012-035 SR DRC 04.24.12.PDF](#)

2. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE MONROE COUNTY CODE TO ESTABLISH SECTION 110-144, UNLAWFUL USES AND/OR DEVELOPMENT, TO CREATE A

REGULATION DIRECTING GROWTH MANAGEMENT DIVISION STAFF ON HOW TO REVIEW BUILDING PERMIT APPLICATIONS FOR A SITE WITH A KNOWN UNLAWFUL USE AND/OR DEVELOPMENT THAT IS CAPABLE OF CODE ENFORCEMENT PROSECUTION UNDER MONROE COUNTY CODE CHAPTER 8, PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

(File 2012-038)

[2012-038 SR DRC 04.24.12.PDF](#)

3. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE SECTIONS 138-28, EVALUATION CRITERIA, AND 138-55, EVALUATION CRITERIA (NROGO); TO ADJUST THE ROGO AND NROGO POINT VALUES TO BE CONSISTENT WITH THE MONROE COUNTY COMPREHENSIVE PLAN, PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

(File 2012-033)

4. AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE SECTIONS 138-19, RATE OF GROWTH ORDINANCE (ROGO), 138-25, APPLICATION PROCEDURES FOR RESIDENTIAL ROGO, 138-47, NONRESIDENTIAL RATE OF GROWTH ORDINANCE, 138-52, APPLICATION PROCEDURES FOR NROGO; TO ESTABLISH A REQUIREMENT THAT A BUILDING PERMIT APPLICATION THAT IS SUBMITTED TO THE BUILDING PERMIT BE REVISED FOLLOWING RECEIPT OF ITS REQUIRED ROGO/NROGO ALLOCATION(S) AND PRIOR TO BUILDING PERMIT ISSUANCE TO MEET ALL BUILDING CODES IN EFFECT AT THE TIME OF BUILDING PERMIT ISSUANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

(File 2012-037)

[2012-037 SR DRC 04.24.12.PDF](#)

## ADJOURNMENT

ADA ASSISTANCE: If you are a person with a disability who needs special accommodations in order to participate in this proceeding, please contact the County Administrator's Office, by phoning (305) 292-4441, between the hours of 8:30 a.m. - 5:00 p.m., no later than five (5) calendar days prior to the scheduled meeting; if you are hearing or voice impaired, call "711".



## MEMORANDUM

### MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

*We strive to be caring, professional and fair*

To: Monroe County Development Review Committee  
Townshley Schwab, Senior Director of Planning & Environmental Resources

From: Steven Biel, Senior Planner

Date: April 24, 2012

Subject: AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE SECTION 130-160, TRANSFERABLE DEVELOPMENT RIGHTS, TO REVISE THE LAND DEVELOPMENT REGULATIONS TO BE CONSISTENT WITH POLICY 101.13.4 OF THE MONROE COUNTY COMPREHENSIVE PLAN, PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.

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**Meeting: April 24, 2012**

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1  
2 I REQUEST  
3

4 The Planning & Environmental Resources Department is proposing an amendment to the text  
5 of §130-160 of the Monroe County Code, which concerns the County's regulations on the  
6 transfer of development rights.  
7

8 II RELEVANT PRIOR COUNTY ACTIONS AND BACKGROUND INFORMATION:  
9

10 Language concerning the transfer of development rights exists in both the Monroe County  
11 Year 2010 Comprehensive Plan and the Monroe County Land Development Code.  
12

13 In 1986, Monroe County adopted a comprehensive plan to protect environmental resources,  
14 particularly wetlands and habitat areas for endangered plants and animals. To implement the  
15 comprehensive plan, Monroe County created new land development regulations which  
16 significantly reduced development potential in environmentally sensitive areas.  
17

18 III REVIEW  
19

20 This text amendment has been initiated by the Planning & Environmental Resources  
21 Department in order to align Section 130-160 (transferable development rights) of the Land  
22 Development Code with the Comprehensive Plan, more specifically Policy 101.13.4. In the

1 past, there has been confusion among applicants when submitting an application for the  
2 transfer of development rights. These proposed text amendments would incorporate  
3 language from the Comprehensive Plan into the Land Development Code for clarity. The  
4 proposed text amendments would clarify what land use districts are designated as sender sites  
5 and clarify the types of habitat to be considered for sender sites within the designated land  
6 use districts.

7  
8 There are also proposed revisions to procedure and an added subsection entitled “Recording”  
9 that would clarify the recording process.

10  
11 Therefore, staff recommends the following changes (deletions are ~~stricken through~~ and  
12 additions are underlined):

13  
14 (b) Sender Sites. The following land use districts and habitats shall be designated as sender sites for  
15 TDRs:

16 (1) Land use district:

- 17 (a) Offshore Island (OS)
- 18 (b) Mainland Native (MN)
- 19 (c) Native (NA)
- 20 (d) Sparsely Settled (SS)
- 21 (e) Parks and Refuge (PR)
- 22 (f) Conservation (C)

23  
24 (2) Habitats:

- 25 (a) Freshwater wetlands
- 26 (b) Saltmarsh/Buttonwood wetlands
- 27 (c) High quality high hammock
- 28 (d) High quality low hammock
- 29 (e) Moderate quality high hammock
- 30 (f) Moderate quality low hammock
- 31 (g) High quality pinelands
- 32 (h) Low quality pinelands
- 33 (i) Beach/berm
- 34 (j) Palm Hammock
- 35 (k) Cactus Hammock
- 36 (l) Disturbed wetlands

37  
38  
39 (3) The assignment of TDRs to Big Pine Key, No Name Key, and North Key Largo from  
40 other areas of the County shall be prohibited.

41 \*\*\*\*\*

42 ~~(b)~~ Procedure. The transfer of development rights shall be carried out as follows:

43 \*\*\*\*\*

1           (4) Prior to the transfer of development rights, an application for a minor conditional use  
2           permit, as established in section 110-69, shall be submitted to the planning director in the  
3           form provided by the planning department. When the application is deemed complete,  
4           the application shall be scheduled for a review and recommendation by the Development  
5           Review Committee who will then forward their recommendation to the planning director,  
6           who will either grant or deny the minor conditional permit application by issuance of a  
7           development order.

8    (ed)   *Bonuses.* Subject to the standards in subsection (a) of this section, residential development rights  
9           transferred from the native area district to lands located within a destination resort district,  
10          recreational vehicle district or to a mixed use district for institutional uses shall be entitled to a  
11          bonus as follows: hotel rooms – two rooms per transferred unit.

12   (e)    Recording. The transfer of development rights shall be recorded as follows:

13  
14          (l) After issuance of a development order, the development order shall be recorded with the clerk  
15          of the circuit court in the official records of the county, including the terms and conditions  
16          upon which such approval is given and the affidavit of intent to transfer and affidavit of  
17          ownership.

#### 19   IV RECOMMENDATION

20  
21          Staff has found that the proposed text amendment would be consistent with Objective 101.13  
22          of the Comprehensive Plan, more specifically Policy 101.13.4 and are necessary for  
23          consistency between the Comprehensive Plan and the Land Development Code. Staff  
24          recommends approval to the Development Review Committee of the proposed amendments  
25          to the Land Development Code as stated in the text of this staff report.

**Sec. 130-160. Transferable development rights (TDRs).**

(a) *General.* All residential development rights allocated or established in sections 130-157, 130-158 and 130-159 shall be transferable in whole or in part from one parcel of land to any other, including the transfer of residential rights to hotel rooms, provided that;

- (1) The development of the receiver site is approved as part of a conditional use permit;
- (2) The development of the receiver site does not exceed the maximum net densities set out in sections 130-157 and 130-162;
- (3) If the receiver site is located in an IS or IS-M district, no more than one dwelling unit shall be developed on a platted lot;
- (4) If the receiver site is located in an IS-D district, no more than two dwelling units shall be developed on a platted lot;
- (5) The development of the receiver site complies with each and every requirement of this chapter;
- (6) Prior to issuance of a building permit authorizing the development of a dwelling unit, all or part of which is derived from a transferred development right, a deed of transfer shall be recorded in the chain of title of the transferor parcel containing a covenant prohibiting the further use of the transferor parcel for the residential purposes other than as excess open space or yard appurtenant to a residential use that is located on a parcel of land that meets the density requirements of the comprehensive plan and this chapter; and
- (7) The allocated density of the receiver site is greater than or equal to the allocated density of the parcel from which the TDR is severed and the sensitivity of the receiver site, as shown in section 118-7(1), is less than or equal to the sensitivity of the parcel from which the TDR is severed.

(b) Sender Sites. The following land use districts and habitats shall be designated as sender sites for TDRs:

(1) Land use district;

- (a) Offshore Island (OS)
- (b) Mainland Native (MN)
- (c) Native (NA)
- (d) Sparsely Settled (SS)
- (e) Parks and Refuge (PR)
- (f) Conservation (C)

(2) Habitats:

- (a) Freshwater wetlands

- (b) Saltmarsh/Buttonwood wetlands
- (c) High quality high hammock
- (d) High quality low hammock
- (e) Moderate quality high hammock
- (f) Moderate quality low hammock
- (g) High quality pinelands
- (h) Low quality pinelands
- (i) Beach/berm
- (j) Palm Hammock
- (k) Cactus Hammock
- (l) Disturbed wetlands

(3) The assignment of TDRs to Big Pine Key, No Name Key, and North Key Largo from other areas of the County shall be prohibited.

(bc) *Procedure.* The transfer of development rights shall be carried out as follows:

- (1) The owner of a parcel of land who transfers density allocated to his property shall prepare an affidavit of ownership and an affidavit of intent to transfer in conformance with a form provided by the director of planning. The affidavits shall be filed with the director of planning at least 30 days prior to the submission of an application for development approval that involves the use of a transferred development right.
- (2) The transfer of development rights shall be substantially in the form and substance as a sample deed provided by the director of planning.
- (3) The owner of any parcel of land may transfer any development rights allocated to his parcel of land at any time to any person; however, the use rights and the value thereof shall be deemed for taxation and all other purposes to be appurtenant to the land from which the rights are transferred until a development order is issued authorizing use of the transferred density
- (4) Prior to the transfer of development rights, an application for a minor conditional use permit, as established in section 110-69, shall be submitted to the planning director in the form provided by the planning department. When the application is deemed complete, the application shall be scheduled for a review and recommendation by the Development Review Committee who will then forward their recommendation to the planning director, who will either grant or deny the minor conditional permit application by issuance of a development order.

(ed) *Bonuses.* Subject to the standards in subsection (a) of this section, residential development rights transferred from the native area district to lands located within a destination resort district, recreational vehicle district or to a mixed use district for institutional uses shall be entitled to a bonus as follows: hotel rooms – two rooms per transferred unit.

(e) Recording. The transfer of development rights shall be recorded as follows:

- (1) After issuance of a development order, the development order shall be recorded with the clerk of the circuit court in the official records of the county, including the terms and conditions upon which such approval is given and the affidavit of intent to transfer and affidavit of ownership.

DRAFT



## MEMORANDUM

### MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

*We strive to be caring, professional and fair*

To: Monroe County Development Review Committee &  
Townshley Schwab, Senior Director of Planning & Environmental Resources

From: Joseph Haberman, AICP, Planning & Development Review Manager

Date: April 5, 2012

Subject: *AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING THE MONROE COUNTY CODE TO ESTABLISH SECTION 110-144, UNLAWFUL USES AND/OR DEVELOPMENT, TO CREATE A REGULATION DIRECTING GROWTH MANAGEMENT DIVISION STAFF ON HOW TO REVIEW BUILDING PERMIT APPLICATIONS FOR A SITE WITH A KNOWN UNLAWFUL USE AND/OR DEVELOPMENT THAT IS CAPABLE OF CODE ENFORCEMENT PROSECUTION UNDER MONROE COUNTY CODE CHAPTER 8, PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.*

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**Meeting: April 24, 2012**

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1  
2 I REQUEST

3  
4 The Planning & Environmental Resources Department is proposing an amendment to the text  
5 of the Monroe County Code (MCC) to establish a new section, §110-144, in order to provide  
6 a regulation directing Growth Management Division staff on how to review building permit  
7 applications for a site with a known unlawful use and/or development that is capable of code  
8 enforcement prosecution under MCC Chapter 8.  
9

10 II RELEVANT PRIOR COUNTY ACTIONS:

11  
12 On April 17, 2002, the BOCC adopted Ordinance #010-2002, which among other changes,  
13 amending the requirements related to processing building permits on sites with unlawful uses  
14 and improvements in MCC §6-26. The section was later renumbered as MCC §6-107.  
15

16 At the time of this staff report, the Growth Management Division was in the process of  
17 amending MCC Chapter 6, Buildings and Construction, to abolish MCC §6-107.  
18  
19  
20  
21

1 **III REVIEW**

2  
3 The Growth Management Division is taking steps to eliminate MCC §6-107. The rationale  
4 for eliminating the section and its provisions relates to floodplain management issues, not  
5 land use issues. Monroe County has floodplain compliance programs to assure illegal post-  
6 FIRM structures below base flood elevation are remedied. A new Certificate of Compliance  
7 Program has been proposed to the Federal Emergency Management Agency (FEMA), which  
8 FEMA has indicated is acceptable to it as an alternative to “inspection upon permit”. If  
9 ultimately approved, this program would result in MCC §6-107 as being unusable for  
10 floodplain management regulation enforcement.

11  
12 Although normally used as a mechanism to rectify floodplain management related violations  
13 on a site by withholding building permit approvals, the provisions set forth in MCC §6-107  
14 have also been utilized as a mechanism to rectify land use related violations. There is not a  
15 regulation with similar language in the Land Development Code. If the text amendment  
16 eliminating MCC §6-107 is ultimately approved, the Land Development Code must be  
17 amended to provide a building permit plan reviewer, such as planner or biologist, with an  
18 option to deny or fail a permit if there is a known unlawful use on the site. Doing such  
19 would not be inconsistent with the rationale for eliminating MCC §6-107, as that amendment  
20 is being carried out for legalities specifically associated with floodplain management, not  
21 land use. Further, as land use is controlled by regulations in the Land Development Code,  
22 not in MCC Chapter 6, such a regulation would be more appropriately located in the Land  
23 Development Code.

24  
25 As a note, this proposed amendment is not contingent on the elimination of MCC §6-107. If  
26 it is decided that MCC §6-107 should remain, the provisions of this regulation would be  
27 consistent with those set forth in MCC §6-107 and the regulations would not necessarily be  
28 redundant in that they would not be located in the same chapter of the Monroe County Code.

29  
30 Planners and Biologists who review applications for land use issues need a specifically  
31 worded regulation to cite in order to withhold the issuance of a building permit (not related to  
32 improving a life and safety issue) on a site that has a known violation related to land use. It  
33 is inappropriate and contradictory for the County to allow improvements on a site that would  
34 facilitate or improve an unlawful use. Such approval could be viewed as a tacit approval of  
35 the unlawful use or a recognition that it is lawful. Further, the County needs mechanisms to  
36 eliminate non-approved unlawful uses that are beyond the time limitations of code  
37 enforcement. This proposed amendment uses the language of MCC §6-107 as a base. The  
38 only two notable differences are a) the proposed amendment applies to any unlawful use, not  
39 only those existing on the effective date of the ordinance establishing the section and b) the  
40 proposed amendment applies only to unlawful uses and not “improvements” which is an  
41 undefined term in the Land Development Code.

42  
43 **Sec. 6-107. Unlawful uses and improvements.**

44  
45 The term "unlawful use or improvement," as used in this section, means any use or  
46 improvement existing on the effective date of the ordinance from which this section  
47 is derived, that is capable of code enforcement prosecution under chapter 8. Except

1 for building permits that are limited exclusively to addressing imminent risks to  
2 property and public health and safety, no building permit shall be issued for any use  
3 or improvement involving all or any portion of a parcel of land as defined in part II of  
4 this Code that contains an unlawful use or improvement until the parcel is brought  
5 into compliance with the provisions of part II of this Code. By way of illustration and  
6 not limitation, permits may be issued for repairs and replacement of roof and other  
7 building structural components to the extent necessary to address imminent risks of  
8 property damage and to public safety and health, such as for, but not limited to, the  
9 repair of leaking roofs and damaged roofs, walls, foundation; and, violations of  
10 building, mechanical, and electrical codes. Any such permit shall contain a provision  
11 requiring compliance with part II of this Code by the date specified in the permit.  
12

13 Therefore, staff recommends the following changes (Deletions are ~~stricken through~~ and  
14 additions are underlined. Text to remain the same is in black):  
15

16 **Sec. 110-144. Unlawful uses and development.**  
17

18 A lawfully established use means a use that has received a permit or other official approval  
19 from the division of growth management. The term *unlawful use*, as used in this section,  
20 means any use that has not received a permit or other official approval from the division of  
21 growth management and is thereby capable of code enforcement prosecution under chapter 8.  
22 Except for building permits that are limited exclusively to addressing imminent risks to  
23 public health and safety, the planning department shall not approve any building permit  
24 application for an improvement involving all or any portion of a parcel of land as defined in  
25 section 101-1 that contains an unlawful use until the unlawful use is terminated or is  
26 permitted in accordance with the Land Development Code. By way of illustration and not  
27 limitation, building permit applications may be approved for repairs and/or replacement of  
28 roof, other building structural components, plumbing and/or electric – however only to the  
29 extent necessary to address imminent risks to public safety and health. Any such permit  
30 shall contain a provision requiring compliance with the Land Development Code by a date  
31 specified in the permit, as determined by the planning director.  
32

33 **IV RECOMMENDATION**  
34

35 Staff has found that the proposed text amendment would be consistent with the provisions of  
36 §102-158(d)(5)(b): 1. Changed projections (e.g., regarding public service needs) from those  
37 on which the text or boundary was based; 2. Changed assumptions (e.g., regarding  
38 demographic trends); 3. Data errors, including errors in mapping, vegetative types and  
39 natural features described in volume I of the plan; 4. New issues; 5. Recognition of a need for  
40 additional detail or comprehensiveness; or 6. Data updates. Specifically, staff has found that  
41 the proposed text amendments are necessary due to new issues and a recognition of a need  
42 for additional detail or comprehensiveness.  
43

44 Staff recommends that the Board of County Commissioners amend the Monroe County Code  
45 as stated in the text of this staff report.



## MEMORANDUM

### MONROE COUNTY PLANNING & ENVIRONMENTAL RESOURCES DEPARTMENT

*We strive to be caring, professional and fair*

To: Monroe County Development Review Committee &  
Townasley Schwab, Senior Director of Planning & Environmental Resources

From: Joseph Haberman, AICP, Planning & Development Review Manager

Date: April 5, 2012

Subject: *AN ORDINANCE BY THE MONROE COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING MONROE COUNTY CODE SECTIONS 138-19, RATE OF GROWTH ORDINANCE (ROGO), 138-25, APPLICATION PROCEDURES FOR RESIDENTIAL ROGO, 138-47, NONRESIDENTIAL RATE OF GROWTH ORDINANCE, 138-52, APPLICATION PROCEDURES FOR NROGO; TO ESTABLISH A REQUIREMENT THAT A BUILDING PERMIT APPLICATION THAT IS SUBMITTED TO THE BUILDING PERMIT BE REVISED FOLLOWING RECEIPT OF ITS REQUIRED ROGO/NROGO ALLOCATION(S) AND PRIOR TO BUILDING PERMIT ISSUANCE TO MEET ALL BUILDING CODES IN EFFECT AT THE TIME OF BUILDING PERMIT ISSUANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF CONFLICTING PROVISIONS; PROVIDING FOR TRANSMITTAL TO THE STATE LAND PLANNING AGENCY AND THE SECRETARY OF STATE; PROVIDING FOR CODIFICATION; PROVIDING FOR AN EFFECTIVE DATE.*

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**Meeting: April 24, 2012**

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1  
2 I REQUEST

3  
4 The Planning & Environmental Resources Department is proposing amendments to the text  
5 of the Monroe County Code concerning the County's Residential Rate of Growth Ordinance  
6 (ROGO) and Nonresidential Rate of Growth Ordinance (NROGO). The general purpose of  
7 the text amendments is establish a requirement that a building permit application be revised  
8 following receipt of its require ROGO and/or NROGO allocation(s) and prior to building  
9 permit issuance to meet all building codes in effect at the time of building permit issuance.

10  
11 II RELEVANT PRIOR COUNTY ACTIONS AND BACKGROUND INFORMATION:

12  
13 The ROGO was implemented within the Monroe County Code as required by Monroe  
14 County Comprehensive Plan Policy 101.2.13.

15  
16 The ROGO was first adopted in 1992 by Ordinance #016-1992. It has been effective from  
17 July 1992 to present. In order to carry out several miscellaneous amendments, MCC Chapter  
18 138, Article II, ROGO has been amended several times from it adoption to present date. Of

1 these amendments, it is important to note that in order to implement the tier scoring system,  
2 the ROGO regulations were amended in 2006 by Ordinance #009-2006.  
3

4 As set forth in MCC §138-19(b), the purposes and intent of the ROGO are: 1) to facilitate  
5 implementation of goals, objectives and policies set forth in the Comprehensive Plan relating  
6 to protection of residents, visitors and property in the county from natural disasters,  
7 specifically including hurricanes; 2) to limit the annual amount and rate of residential  
8 development commensurate with the county's ability to maintain a reasonable and safe  
9 hurricane evacuation clearance time; 3) to regulate the rate and location of growth in order to  
10 further deter deterioration of public facility service levels, environmental degradation and  
11 potential land use conflicts; 4) to allocate the limited number of dwelling units available  
12 annually hereunder, based upon the goals, objectives and policies set forth in the  
13 Comprehensive Plan; and 5) to implement goal 105 of the Comprehensive Plan.  
14

15 The NROGO was carried out as required by Monroe County Comprehensive Plan Policy  
16 101.3.1.  
17

18 The NROGO was first adopted in 2001 by Ordinance #032-2001. It has been effective from  
19 July 2001 to present. In order to carry out several miscellaneous amendments, MCC Chapter  
20 138, Article III, NROGO has been amended several times from its adoption to present date.  
21 Of these amendments, it is important to note that in order to implement the tier scoring  
22 system, the NROGO regulations were amended in 2006 by Ordinance #011-2006.  
23

24 As set forth in MCC §138-47(b), the purposes and intent of the NROGO are: 1) to facilitate  
25 implementation of goals, objectives and policies set forth in the Comprehensive Plan relating  
26 to maintaining a balance between residential and nonresidential growth; 2) to maintain a ratio  
27 of approximately 239 square feet of nonresidential floor area for each new residential permit  
28 issued through the ROGO; 3) to promote the upgrading and expansion of existing small-size  
29 businesses and to retain the predominately small scale character of nonresidential  
30 development in the Florida Keys; 4) to regulate the rate and location of nonresidential  
31 development in order to eliminate potential land use conflicts; and 5) to allocate the  
32 nonresidential floor area annually hereunder, based on the goals, objectives and policies of  
33 the Comprehensive Plan and the Livable CommuniKeys master plans.  
34

### 35 III REVIEW 36

37 Since the adoption of ROGO and NROGO, Monroe County has required applicants for  
38 allocations to obtain building permit approval prior to applying for an allocation. The  
39 existing process requires an applicant to submit a full plan set for the site and all buildings as  
40 part of building permit application(s), as well as application fees for the building permit and  
41 corresponding plan review.  
42

43 Development approved by a building permit should be compliant with the most current codes  
44 in place at time of issuance. However, under the current system, applicants are required to  
45 seek building permit approval prior to application for a ROGO and/or NROGO allocation.  
46 Since the reviews by various disciplines occur at the beginning of a process that may take

1 some time (ROGO/NROGO are competitive, point-based systems and applications may  
2 remain in the systems for several years), it is possible that the building permit application that  
3 was reviewed and approved under the codes at time of application may become non-  
4 compliant with the current code requirements on the date of building permit issuance.  
5

6 To alleviate this issue, staff is proposing a requirement that a building permit application be  
7 revised following receipt of its require ROGO and/or NROGO allocation(s) and prior to  
8 building permit issuance to meet all building codes in effect at the time of building permit  
9 issuance.

10  
11 Therefore, staff recommends the following changes (Deletions are ~~stricken through~~ and  
12 additions are underlined. Text to remain the same is in black):  
13

14 **Sec. 138-19. Residential rate of growth ordinance (ROGO).**  
15

16 (a) *Definitions.* The following words, terms and phrases, when used in this ~~section~~ article,  
17 shall have the meanings ascribed to them in this ~~subsection~~ section, except where the  
18 context clearly indicates a different meaning:  
19

20 *Allocation period* means a defined period of time within which applications for the  
21 residential ROGO allocation will be accepted and processed.  
22

23 *Annual allocation period* means the 12-month period beginning on July 13, 1992, (the  
24 effective date of the original dwelling unit allocation ordinance), and subsequent one-year  
25 periods.  
26

27 *Annual residential ROGO allocation* means the maximum number of dwelling units for  
28 which building permits may be issued during an annual allocation period.  
29

30 *Buildable lot or parcel, for the purposes of this chapter*, means a lot or parcel which must  
31 contain a minimum of 2,000 square feet of upland, including any disturbed wetlands that  
32 can be filled ~~pursuant to this chapter~~.  
33

34 *Controlling date* means the date and time a ROGO application is submitted. This date  
35 shall be used to determine the annual anniversary date for receipt of a perseverance point  
36 and shall determine precedence when ROGO applications receive identical ranking  
37 scores. A new controlling date shall be established based upon the resubmittal date and  
38 time of any withdrawn or revised application, except pursuant to section 138-25(h).  
39

40 *Lawfully established for ROGO/NROGO exemption* means a residential dwelling unit or  
41 nonresidential floor area that has received a permit or other official approval from the  
42 division of growth management for the ~~units~~ unit and/or nonresidential floor area.  
43

44 *Quarterly allocation period* means the three-month period beginning on July 13, 1992, or  
45 such other date as the board may specify, and successive three-month periods.  
46

1 *Quarterly residential ROGO allocation* means the maximum number of dwelling units  
2 for which building permits may be issued in a quarterly allocation period.

3  
4 *Residential dwelling unit* means a dwelling unit as defined in section 101-1, and  
5 expressly includes the following other terms also specifically defined in section 101-1:  
6 ~~lawfully established hotel~~ rooms, hotel or motel, campground spaces, mobile homes,  
7 transient residential units, institutional residential units (except hospital rooms) and ~~live-~~  
8 ~~aboards~~ live-aboard vessels.

9  
10 *Residential ROGO allocation* means the maximum number of dwelling units for which  
11 building permits may be issued in a given time period.

12  
13 *Residential ROGO allocation award* means the approval of a residential ROGO  
14 application for the issuance of a building permit.

15  
16 *ROGO application* means the residential ROGO application submitted by applicants  
17 seeking allocation awards.

- 18  
19 (b) *Purpose and intent.* The purposes and intent of residential ROGO are:  
20 (1) To facilitate implementation of goals, objectives and policies set forth in the  
21 comprehensive plan relating to protection of residents, visitors and property in the  
22 county from natural disasters, specifically including hurricanes;  
23 (2) To limit the annual amount and rate of residential development commensurate with  
24 the county's ability to maintain a reasonable and safe hurricane evacuation clearance  
25 time;  
26 (3) To regulate the rate and location of growth in order to further deter deterioration of  
27 public facility service levels, environmental degradation and potential land use  
28 conflicts;  
29 (4) To allocate the limited number of dwelling units available annually hereunder, based  
30 upon the goals, objectives and policies set forth in the comprehensive plan; and  
31 (5) To implement goal 105 of the comprehensive plan.

32  
33 \* \* \* \* \*

34  
35 **Sec. 138-25. Application procedures for residential ROGO.**

- 36  
37 (a) *Application for allocation.* In each quarterly allocation period, the ~~department of~~ planning  
38 and environmental resources department shall accept applications to enter the residential  
39 ROGO system ~~on forms prescribed by the planning director~~. Except for allocations to be  
40 reserved and awarded under section 138-24(b), the ROGO application ~~form~~ must be  
41 accompanied by an approved building permit application ~~and a nonrefundable processing~~  
42 ~~fee~~ in order to be considered in the current allocation period. The planning director, or his  
43 or her designee, shall review the ROGO application for completeness. If the application  
44 is determined to be incomplete, the planning director, or his or her designee, shall reject  
45 the ROGO application and notify the applicant of such rejection, and the reasons  
46 therefore, within ten working days. The application shall be assigned a controlling date

1 that reflects the time and date of its submittal unless the application is determined to be  
2 incomplete. If the application is rejected, then the new controlling date shall be assigned  
3 when a complete application is submitted. The ROGO application shall be submitted in a  
4 form provided by the planning and environmental resources department and meet the  
5 following requirements:

6 (1) The application shall include a) the name and address of the property owner(s) of  
7 record, b) the property record card(s) from the Monroe County Property Appraiser, c)  
8 a location map, d) a written legal description of the property proposed for  
9 development, e) a statement and confirmation that no new structures shall exceed or  
10 otherwise violate the height and floodplain management limitations of this Land  
11 Development Code, f) a boundary survey of the property proposed for development,  
12 prepared by a surveyor registered in the State of Florida, showing the boundaries of  
13 the site, elevations, bodies of water and wetlands on the site and adjacent to the site,  
14 existing structures including all paved areas, existing easements, total acreage, and  
15 total acreage by habitat and g) the site plan.

16 (2) If a conditional use permit is required in accordance with this Land Development  
17 Code for the development applied for, the conditional use permit shall be obtained  
18 and effective prior to submittal of any ROGO application. A copy of the recorded  
19 development order shall be submitted with the ROGO application.

20 (3) The site plan shall be prepared and sealed by a professional architect, engineer, or any  
21 other professional licensed in the State of Florida to prepare site plan. The site plan  
22 shall be drawn to a scale of one inch equals twenty feet. At a minimum, the site plan  
23 shall depict the following features and information:

24 a. Date, north point and graphic scale;

25 b. Boundary lines of site, including all property lines and mean high-water lines  
26 shown in accordance with Florida Statutes;

27 c. All attributes from the boundary survey, excluding only existing structures to be  
28 removed as part of a redevelopment;

29 d. Future Land Use Map (FLUM) designation(s) of the site;

30 e. Land Use (Zoning) District designation(s) of site;

31 f. Tier designation(s) of the site;

32 g. Flood zones pursuant to the Flood Insurance Rate Map;

33 h. Setback lines as required by this Land Development Code;

34 i. Locations and dimensions of all existing and proposed structures, including all  
35 paved areas and clear site triangles;

36 j. Size and type of buffer yards and parking lot landscaping areas, including the  
37 species and number of plants;

38 k. Extent and area of wetlands, open space preservation areas and conservation  
39 easements;

40 l. Delineation of habitat types to demonstrate buildable area on the site, including  
41 any heritage trees identified and any potential species that may use the site  
42 (certified by an approved biologist and based on the most current professionally-  
43 recognized mapping by the U.S. Fish and Wildlife Service);

44 m. Drainage plan including existing and proposed topography, all drainage  
45 structures, retention areas, drainage swales and existing and proposed permeable  
46 and impermeable areas;

- 1            n. Location of fire hydrants or fire wells;  
2            o. The location of public utilities, including location of the closest available water  
3            supply system or collection lines and the closest available wastewater collection  
4            system or collection lines (with wastewater system provider) or on-site system  
5            proposed to meet required County and State of Florida wastewater treatment  
6            standards; and  
7            p. A table providing the total land area of the site, the total buildable area of the site,  
8            the type and number of all residential dwelling units, the amounts of impervious  
9            and pervious areas, and calculations for land use intensity, open space ratio, and  
10           off-street parking.  
11           q. As reasonably required, if deemed necessary to complete a full review of the  
12           application, the planning director may request additional information or  
13           coordination letters from other agencies.

- 14  
15        (b) *Fee for review of application.* Each ROGO application shall be accompanied by a  
16        nonrefundable processing fee ~~as may be~~ established by resolution of the board of county  
17        commissioners. Additional fees are not required for successive review of the same  
18        ROGO application unless the application is withdrawn and resubmitted.  
19  
20        (c) *Compliance with other requirements.* The ROGO application shall not constitute an  
21        indication of ~~indicate~~ whether or not the applicant for a residential ~~dwelling unit~~ ROGO  
22        allocation has satisfied and complied with all county, state and federal requirements  
23        otherwise imposed by the county regarding conditions precedent to issuance of a building  
24        permit ~~and shall require that the applicant certify to such compliance.~~  
25  
26        (d) ~~Nonecounty~~ Non-county *time periods.* The county shall develop necessary administrative  
27        procedures and, if necessary, enter into agreements with other jurisdictional entities  
28        which impose requirements as a condition precedent to development in the county, to  
29        ensure that such ~~nonecounty~~ non-county approvals, certifications and/or permits are not  
30        lost due to the increased time requirements necessary for the county to process and  
31        evaluate residential dwelling unit applications and issue allocation awards. The county  
32        may permit evidence of compliance with the requirements of other jurisdictional entities  
33        to be demonstrated by "coordinating letters" in lieu of approvals or permits.  
34  
35        (e) *Limitation on number of applications.*  
36        (1) An individual entity or organization may submit only one ROGO application per unit  
37        in each quarterly allocation period.  
38        (2) There shall be no limit on the number of separate parcels for which ROGO  
39        applications may be submitted by an individual, entity or organization.  
40        (3) A ROGO application for a given parcel shall not be for more dwelling units than are  
41        permitted by applicable zoning or land use regulations or the comprehensive plan.  
42  
43        (f) *Expiration of allocation award.* Except as provided for in this article, an allocation award  
44        shall expire when its corresponding building permit is not picked up after 60 days of  
45        notification by certified mail of the award or after issuance of the building permit, upon

1 expiration of the permit or after failure of the applicant to submit required plan revisions  
2 by the required date set forth in subsection (j).  
3

4 (g) *Borrowing from future housing allocations.*

- 5 (1) The planning commission may award additional units from future annual ~~dwelling~~  
6 ~~unit-residential~~ ROGO allocations to fully grant an application for residential  
7 dwelling units in a project if such an application receives an allocation award for  
8 some, but not all, of the units requested.
- 9 (2) The board of county commissioners, in approving affordable housing allocations  
10 pursuant to section 138-24(b), may reserve and award additional units from future  
11 annual dwelling unit allocations if the number of available allocations is insufficient  
12 to meet specific project needs.
- 13 (3) The planning commission shall not reduce any future market rate quarterly allocation  
14 by more than 20 percent and shall not apply these reductions to more than the next  
15 five annual allocations or 20 quarterly allocations.
- 16 (4) The board of county commissioners, upon recommendation of the planning  
17 commission, may make available for award up to 100 percent of the affordable  
18 housing allocations available over the next five annual allocations or 20 quarterly  
19 allocations.  
20

21 (h) *Revisions of ROGO applications and awards.*

- 22 (1) An applicant may elect to revise a ROGO application to increase the competitive  
23 points in the application without prejudice or change in the controlling date if a  
24 revision is submitted on a form approved by the planning director to the planning and  
25 environmental resources department no later than 30 days following the planning  
26 commission approval of the previous ROGO rankings. Any such revision shall not  
27 involve changes to the approved building permit application. All other applications  
28 that are withdrawn and resubmitted that do not increase the competitive points or  
29 involve revisions to the approved building permit application shall be considered  
30 new, requiring payment of appropriate fees and receiving a new controlling date.
- 31 (2) After receipt of an allocation award, and either before or after receipt of a building  
32 permit, but prior to receipt of a certificate of occupancy, no revisions shall be made to  
33 any aspect of the proposed residential development which formed the basis for the  
34 evaluation review, determination of points and allocation rankings, unless such  
35 revision would have the effect of increasing the points awarded.  
36

37 (i) *Clarification of application data.*

- 38 (1) At any time during the ~~dwelling-unit~~ residential ROGO allocation review and  
39 approval process, the applicant may be requested by the ~~director-of~~ planning director  
40 or the planning commission to submit additional information to clarify the  
41 relationship of the allocation application, or any elements thereof, to the evaluation  
42 criteria. If such a request is made, the ~~director-of~~ planning director shall identify the  
43 specific evaluation criterion at issue and the specific information needed and shall  
44 communicate such request to the applicant.
- 45 (2) Upon receiving a request from the ~~director-of~~ planning director for such additional  
46 information, the applicant may provide such information, or the applicant may

1 decline to provide such information and allow the allocation application to be  
2 evaluated as submitted.

3  
4 (j) Revisions of building permit applications requiring the ROGO allocation(s). In the  
5 event that the Florida Building Code is amended between the date in which a ROGO  
6 application is submitted and the date in which a building permit requiring the ROGO  
7 allocation(s) applied for is issued (which follows the date in which the required  
8 allocation(s) is awarded), if necessary, the applicant shall submit plan revisions to the  
9 building permit application demonstrating full compliance with the current Florida  
10 Building Code in effect. These plan revisions shall be submitted within 90 days of  
11 the ROGO allocation award date or the applicant shall forfeit the ROGO allocation  
12 award. Following receipt of the plan revisions, the building department shall review  
13 the revisions for compliance prior to issuance of the building permit requiring the  
14 ROGO allocation(s) by the building official.

15  
16 (k) Revisions to aspects of the development affecting the approved total of ROGO points.  
17 After the receipt of a certificate of occupancy or other final inspection, no revision  
18 shall be made to any aspect of the completed residential development which formed  
19 the basis for the evaluation, review, determination of points and allocation rankings,  
20 unless such revisions are accomplished pursuant to a new building permit and unless  
21 such revisions would have the net effect of either maintaining or increasing the  
22 number of points originally awarded.

23  
24 \* \* \* \* \*

25  
26 **Sec. 138-47. Nonresidential rate of growth ordinance (NROGO).**

27  
28 (a) *Definitions.* The following words, terms and phrases, when used in this ~~section~~ article,  
29 shall have the meanings ascribed to them in this ~~subsection~~ section, except where the  
30 context clearly indicates a different meaning:

31  
32 *Allocation date* means the specific date and time by which applications for the NROGO  
33 allocation will be accepted and processed.

34  
35 *Annual allocation period* means the 12-month period beginning on July 14, 2001, and  
36 subsequent one-year periods that is used to determine the amount of nonresidential floor  
37 area to be allocated based on the number of ROGO allocations to be issued in the  
38 upcoming ROGO year.

39  
40 *Annual nonresidential ROGO allocation* means the maximum floor area for which  
41 building permits may be issued during an annual allocation period.

42  
43 *Buildable lot or parcel, for the purposes of this chapter,* means ~~the~~ a lot or parcel which  
44 must contain a minimum of 2,000 square feet of uplands, including any disturbed  
45 wetlands that can be filled ~~pursuant to this chapter.~~

1 *Community master plan* means a plan adopted by the board of county commissioners as  
2 part of the Monroe County Livable CommuniKeys Program.

3  
4 *Controlling date* means the same as defined in section 138-19(a), except it shall apply to  
5 NROGO applications under this article.

6  
7 *Covered walkways* means a covered area of any length but no wider than five feet that is  
8 used for providing weather protected pedestrian access from one part of a property to  
9 another part of the same property.

10  
11 *Historic resources* means a building, structure, site, or object listed or eligible for listing  
12 individually or as a contributing resource in a district in the National Register of Historic  
13 Places, the state inventory of historic resources or the county register of designated  
14 historic properties.

15  
16 *Infill* means the development or redevelopment of land that has been bypassed, remained  
17 vacant, and/or underused in otherwise built up areas which are serviced by existing  
18 infrastructure.

19  
20 *Lawfully established for ROGO/NROGO exemption* means a residential dwelling unit or  
21 nonresidential floor area that has received a permit or other official approval from the  
22 division of growth management for the units unit and/or nonresidential floor area.

23  
24 *Nonresidential floor area* means the sum of the gross floor area for a nonresidential  
25 building or structure, as defined in section 101-1, any areas used for the provision of food  
26 and beverage services and seating, whether covered or uncovered, and all covered,  
27 unenclosed areas. Walkways, stairways, entryways, parking, and loading areas are not  
28 considered nonresidential floor area. Additionally, boat barns, covered and unenclosed  
29 boat racks with three or fewer sides not associated with retail sales of boats which do not  
30 exceed 50 percent of the net buildable area of the lot/parcel are not considered  
31 nonresidential floor area. The term "nonresidential floor area" does not include space  
32 occupied by transient residential and institutional residential principal uses.

33  
34 *Nonresidential ROGO allocation, also referred to as NROGO allocation,* means the  
35 maximum amount of nonresidential floor area for which building permits may be issued  
36 in a given time period.

37  
38 *Nonresidential ROGO allocation award, also referred to as NROGO allocation award,*  
39 means the approval of a nonresidential ROGO application ~~for the~~ prior to the application  
40 and subsequent issuance of a building permit to authorize construction of new  
41 nonresidential floor area.

42  
43 *Site* means the parcels of land required to be aggregated ~~under section 130-130~~ to be  
44 developed or from which existing nonresidential floor area is to be transferred or  
45 received.

1 *Storage area* means the outside storage of vehicles, recreational vehicles, boats, campers,  
2 equipment, goods and materials for more than 24 hours. The term "storage area" includes  
3 a contractor's equipment storage, but does not include outdoor retail sales. This is  
4 considered a light industrial use and does not include waste transfer stations, junkyards,  
5 yards or other heavy industrial uses.  
6

7 *Sunshade* means an unenclosed structure used as protection from the weather.  
8

9 (b) *Purpose and intent.* The purposes and intent of the nonresidential rate of growth  
10 ordinance are:

- 11 (1) To facilitate implementation of goals, objectives and policies set forth in the  
12 comprehensive plan relating to maintaining a balance between residential and  
13 nonresidential growth.
- 14 (2) To maintain a ratio of approximately 239 square feet of nonresidential floor area for  
15 each new residential permit issued through the residential rate of growth ordinance  
16 (ROGO).
- 17 (3) To promote the upgrading and expansion of existing small-size businesses and to  
18 retain the predominately small scale character of nonresidential development in the  
19 Florida Keys.
- 20 (4) To regulate the rate and location of nonresidential development in order to eliminate  
21 potential land use conflicts.
- 22 (5) To allocate the nonresidential floor area annually hereunder, based on the goals,  
23 objectives and policies of the comprehensive plan and the ~~Livable CommuniKeys~~  
24 community master plans.

25 \* \* \* \* \*

26  
27  
28 **Sec. 138-52. - Application procedures for NROGO.**  
29

30 (a) *Application for allocation.* The planning and environmental resources department shall  
31 accept applications to enter the NROGO system ~~on forms provided by the planning~~  
32 ~~director.~~ The NROGO application ~~form~~ must be accompanied by an approved building  
33 permit application in order to be considered in the current annual allocation period. The  
34 application must state for which allocation category an award is being sought, either  
35 2,500 square feet or less, or ~~more than 2,500~~ 2,501 square feet or more. The planning  
36 director, or his or her designee, shall review the NROGO application for completeness. If  
37 the application is determined to be incomplete, the planning director, or his or her  
38 designee, shall reject the NROGO application and notify the applicant of such rejection,  
39 and the reasons therefor, within ten working days. If determined to be complete, the  
40 application shall be assigned a controlling date. The NROGO application shall be  
41 submitted in a form provided by the planning and environmental resources department  
42 and meet the following requirements:

- 43 (1) The application shall include a) the name and address of the property owner(s) of  
44 record, b) the property record card(s) from the Monroe County Property Appraiser, c)  
45 a location map, d) a written legal description of the property proposed for  
46 development, e) a statement and confirmation that no new structures shall exceed or

1 otherwise violate the height and floodplain management limitations of this Land  
2 Development Code, f) a boundary survey of the property proposed for development,  
3 prepared by a surveyor registered in the State of Florida, showing the boundaries of  
4 the site, elevations, bodies of water and wetlands on the site and adjacent to the site,  
5 existing structures including all paved areas, existing easements, total acreage and  
6 total acreage by habitat and g) the site plan.

7 (2) If a conditional use permit is required in accordance with this Land Development  
8 Code for the development applied for, the conditional use permit shall be obtained  
9 and effective prior to submittal of any NROGO application. A copy of the recorded  
10 development order shall be submitted with the NROGO application.

11 (3) The site plan shall be prepared and sealed by a professional architect, engineer, or any  
12 other professional licensed in the State of Florida to prepare site plan. The site plan  
13 shall be drawn to a scale of one inch equals twenty feet. At a minimum, the site plan  
14 shall depict the following features and information:

15 a. Date, north point and graphic scale;

16 b. Boundary lines of site, including all property lines and mean high-water lines  
17 shown in accordance with Florida Statutes;

18 c. All attributes from the boundary survey, excluding only existing structures to be  
19 removed as part of a redevelopment;

20 d. Future Land Use Map (FLUM) designation(s) of the site;

21 e. Land Use (Zoning) District designation(s) of site;

22 f. Tier designation(s) of the site;

23 g. Flood zones pursuant to the Flood Insurance Rate Map;

24 h. Setback lines as required by this Land Development Code;

25 i. Locations and dimensions of all existing and proposed structures, including all  
26 paved areas and clear site triangles;

27 j. Size and type of buffer yards and parking lot landscaping areas, including the  
28 species and number of plants;

29 k. Extent and area of wetlands, open space preservation areas and conservation  
30 easements;

31 l. Delineation of habitat types to demonstrate buildable area on the site, including  
32 any heritage trees identified and any potential species that may use the site  
33 (certified by an approved biologist and based on the most current professionally-  
34 recognized mapping by the U.S. Fish and Wildlife Service);

35 m. Drainage plan including existing and proposed topography, all drainage  
36 structures, retention areas, drainage swales and existing and proposed permeable  
37 and impermeable areas;

38 n. Location of fire hydrants or fire wells;

39 o. The location of public utilities, including location of the closest available water  
40 supply system or collection lines and the closest available wastewater collection  
41 system or collection lines (with wastewater system provider) or on-site system  
42 proposed to meet required County and State of Florida wastewater treatment  
43 standards; and

44 p. A table providing the total land area of the site, the total buildable area of the site,  
45 the type and square footage of all nonresidential land uses, the type and number of

1 all residential dwelling units, the amounts of impervious and pervious areas, and  
2 calculations for land use intensity, open space ratio, and off-street parking.

3 q. As reasonably required, if deemed necessary to complete a full review of the  
4 application, the planning director may request additional information or  
5 coordination letters from other agencies.  
6

7 (b) *Fee for review of application.* Each NROGO application shall be accompanied by a  
8 nonrefundable processing fee ~~as may be~~ established by resolution of the board of county  
9 commissioners. Additional fees are not required for successive review of the same  
10 NROGO application unless the application is withdrawn and resubmitted.

11  
12 (c) *Compliance with other requirements.* The NROGO ~~applications~~ application shall ~~indicate~~  
13 not constitute an indication of whether or not the applicant for the nonresidential floor  
14 area allocation has satisfied and complied with all county, state, and federal requirements  
15 otherwise imposed by the county regarding conditions precedent to issuance of a building  
16 permit ~~and shall require that the applicant certify to such compliance.~~

17  
18 (d) *Time of review.* ~~Notwithstanding the time periods set forth in section 110-142, the~~  
19 ~~director of~~ The planning director may retain the allocation application and its associated  
20 building permit application for review pursuant to the evaluation procedures and criteria  
21 set forth in section 138-53 and section 138-55.  
22

23 (e) ~~None county~~ Non-county *time periods.* The county shall develop necessary administrative  
24 procedures and, if necessary, enter into agreements with other jurisdictional entities  
25 which impose requirements as a condition precedent to development in the county, to  
26 ensure that such ~~none county~~ non-county approvals, certifications and/or permits are not  
27 lost due to the increased time requirements necessary for the county to process and  
28 evaluate ~~residential dwelling unit~~ NROGO applications and issue allocation awards. The  
29 county may permit evidence of compliance with the requirements of other jurisdictional  
30 entities to be demonstrated by coordination letters in lieu of approvals or permits.  
31

32 (f) *Limitation on number of applications.*

33 (1) An individual entity or organization may have only one active NROGO application  
34 per site in the ~~annual~~ allocation period.

35 (2) There shall be no limit on the number of separate projects for which NROGO  
36 applications may be submitted by an individual, entity or organization.  
37

38 (g) *Expiration of allocation award.* An allocation award shall expire when its corresponding  
39 building permit is deemed to expire pursuant to chapter 102, article VII, ~~or~~ after 60 days  
40 of mailing of notification for the award of the allocation of nonresidential floor area or  
41 after failure of the applicant to submit required plan revisions by the required date set  
42 forth in subsection (k).  
43

44 (h) *Withdrawal of NROGO application.* An applicant may elect to withdraw a NROGO  
45 application without prejudice at any time up to finalization of the evaluation rankings by

1 the planning commission. Revision and resubmission of the withdrawn application must  
2 be in accordance with subsection (i) of this section.  
3

4 (i) *Revisions to applications and awards.*

- 5 (1) Upon submission of a NROGO application, an applicant may revise the application if  
6 it is withdrawn and resubmitted prior to the allocation date for the allocation period in  
7 which the applicant wishes to compete. Resubmitted applications shall be considered  
8 new, requiring payment of appropriate fees and receiving a new controlling date.  
9 (2) After receipt of an allocation award, and either before or after receipt of a building  
10 permit being obtained, but prior to receipt of a certificate of occupancy or final  
11 inspection, no revisions shall be made to any aspect of the proposed nonresidential  
12 development which formed the basis for the evaluation review, determination of  
13 points and allocation rankings, unless such revision would have the effect of  
14 increasing the points awarded.  
15 (3) After the receipt of an allocation award, a building permit and a certificate of  
16 occupancy or final inspection, no revision shall be made to any aspect of the  
17 completed nonresidential development which formed the basis for the evaluation,  
18 review, determination of points and allocation rankings, unless such revisions are  
19 accomplished pursuant to a new building permit and unless such revisions would  
20 have the net effect of either maintaining or increasing the number of points originally  
21 awarded.  
22

23 (j) *Clarification of application data.*

- 24 (1) At any time during the NROGO allocation review and approval process, the applicant  
25 may be requested by the ~~director of~~ planning director or the planning commission, to  
26 submit additional information to clarify the relationship of the allocation application,  
27 or any elements thereof, to the evaluation criteria. If such a request is made, the  
28 ~~director of~~ planning director shall identify the specific evaluation criterion at issue  
29 and the specific information needed and shall communicate such request to the  
30 applicant.  
31 (2) Upon receiving a request from the ~~director of~~ planning director for such additional  
32 information, the applicant may provide such information; or the applicant may  
33 decline to provide such information and allow the allocation application to be  
34 evaluated as submitted.  
35

36 (k) Revisions of building permit applications requiring the NROGO allocation(s). In the  
37 event that the Florida Building Code is amended between the date in which a  
38 NROGO application is submitted and the date in which a building permit requiring  
39 the NROGO allocation(s) applied for is issued (which follows the date in which the  
40 required allocation(s) is awarded), if necessary, the applicant shall submit plan  
41 revisions to the building permit application demonstrating full compliance with the  
42 current Florida Building Code in effect. These plan revisions shall be submitted  
43 within 90 days of the NROGO allocation award date or the applicant shall forfeit the  
44 NROGO allocation award. Following receipt of the plan revisions, the building  
45 department shall review the revisions for compliance prior to issuance of the building  
46 permit requiring the NROGO allocation(s) by the building official.

1  
2       (1) Revisions to aspects of the development affecting the approved total of NROGO  
3 points. After the receipt of a certificate of occupancy or other final inspection, no  
4 revision shall be made to any aspect of the completed nonresidential development  
5 which formed the basis for the evaluation, review, determination of points and  
6 allocation rankings, unless such revisions are accomplished pursuant to a new  
7 building permit and unless such revisions would have the net effect of either  
8 maintaining or increasing the number of points originally awarded.  
9

10  
11 **IV RECOMMENDATION**

12  
13       Staff has found that the proposed text amendment would be consistent with the provisions of  
14 §102-158(d)(5)(b): 1. Changed projections (e.g., regarding public service needs) from those  
15 on which the text or boundary was based; 2. Changed assumptions (e.g., regarding  
16 demographic trends); 3. Data errors, including errors in mapping, vegetative types and  
17 natural features described in volume I of the plan; 4. New issues; 5. Recognition of a need for  
18 additional detail or comprehensiveness; or 6. Data updates. Specifically, staff has found that  
19 the proposed text amendments are necessary due to a recognition of a need for additional  
20 detail or comprehensiveness.

21  
22       Staff recommends that the Board of County Commissioners amend the Monroe  
23 County Code as stated in the text of this staff report.